



Written Submission to the Office of the Privacy Commissioner of Canada: Exploratory consultation on the development of a children's privacy code

August 2025

Summary

The Canadian Paediatric Society (CPS) is pleased to submit the following comments to inform the Office of the Privacy Commissioner of Canada's (OPC) *Exploratory consultation on the development of a Children's Privacy Code*.

Online devices are ubiquitous in the lives of children and youth and in most of the places they live, learn, and play. Frequent, intensive use of digital media by children and youth can significantly influence both physical and mental health and development. Children and youth are disproportionately at risk to the potential harms associated with engaging in the digital environment, including risks related to the collection, use or disclosure of their personal information.

A Children's Privacy Code would be an important tool to help mitigate the risks young people face today when navigating the digital world. A Canadian Children's Privacy Code should be comprehensive and enforceable, with a broad, "future-proof" framework that applies to all services that are likely to be accessed by children. Most importantly, a Children's Privacy Code should adopt a child rights perspective, be rooted in advancing the best interests of the child, and be in alignment with the UN *Convention on the Rights of the Child* (UNCRC) and international best practices. The development of a Children's Privacy Code would represent a significant step forward for the well-being of Canada's children and youth and we thank the OPC for the opportunity to engage in this important consultation.

Consultation Questions

- 1. What measures should be put in place to ensure that a child has the capacity to provide consent [on the collection, use and disclosure of their personal information]? When should consent be sought from parents/guardians instead of a child?**

The challenges children, youth and families face in safely navigating online spaces are far beyond the level of the individual. First and foremost, the responsibility should be on digital platforms and services to prioritize privacy and children's rights, rather than expecting children and families to navigate settings and terms of service that can often be complex, lengthy, opaque, or deceptive. The privacy-by-design standards for any platform or service that can be accessible to children should be as strong as possible. In addition to default settings that optimize children's privacy and safety, platforms must provide short, plain language, prominent, and age-appropriate information on their data and privacy policies.

Section IV of the UNCRC *General comment* No.25 illustrates many of the key considerations that should be upheld on the issue of evolving capacities to provide consent. For instance, Section IV para. 20 states that "[States parties should take into account the changing position of children and their agency in the modern world, children's competence and understanding, which develop unevenly across areas of skill and activity, and the diverse nature of the risks involved](#)". An approach based on maturity and developmental readiness should be applied that aligns with the evolving capacities of children to comprehend information, reason around decision-making, and understand the immediate and long-term implications of these decisions. Simple and clear checks for understanding should be embedded in concise, plain language and with standards proportionate to the risk to the child's privacy.

Parental consent should be the default for younger children who lack sufficient maturity and capacity to fully understand the implications of their decisions. As capacity to provide consent slowly builds during

adolescence, mechanisms for shared decision-making can help to balance autonomy and privacy while gradually strengthening a young person's critical thinking and digital literacy skills. A family-centered, shared decision-making model can best respect and support the emerging capacity of adolescents, as well as the parental responsibility to act as appropriate substitute decision-makers for young children. Safely empowering adolescents to develop agency, autonomy and responsibility is important for their safety and well-being not only as adolescents, but into adulthood.

Any regulations with respect to privacy mechanisms that seek parental consent or control should be reflective of the fact that there are certain situations where parental involvement may not be in the best interests of the child. They should also recognize the benefits private online spaces can provide, particularly for 2SLGBTQIA+ youth and other marginalized groups seeking community, knowledge or supports. This consideration further underscores the importance of policies that reflect the evolving capacities of young people and the fundamental importance of ensuring the primary responsibility is appropriately placed on digital platforms and services to fully uphold and protect the privacy and rights of all children and youth.

2. How should an organization present information to children of different developmental age ranges to ensure that they reasonably understand how their information is being collected, used or disclosed and can meaningfully consent to practices?

A proactive and upstream approach that prioritizes the best interests of the child in the regulation of children's data should be at the foundation of any data privacy strategy. Recognizing the inherent challenges within a consent-based approach, particularly with respect to children and youth, where consent on the collection, use and disclosure of personal data is gathered, a [model of informed consent](#) should be applied. Under this model, the decision-maker: 1) has capacity to make the decision, 2) is adequately informed, that is, given all relevant information that a reasonable person would require to make a decision, and 3) the resultant decision must be voluntary and free from coercion or coercive practices.

To ensure the way information is presented can be reasonably understood by children of differing developmental ages, standards should be co-designed with diverse youth panels. Information should combine visuals, icons and plain language and be tested with children of target age ranges. Interactive tools and creative and attention-grabbing delivery mechanisms (e.g. videos, cartoons, games) can help to explain concepts in an accessible and child-friendly manner.

The OPC can look to the California Age-Appropriate Design Code (CAAADC) for an existing approach to presenting information to children of different development ages. For example, the CAADC states that a business that provides an online service, product or feature likely to be accessed by children shall [“provide any privacy information, terms of service, policies, and community standards, concisely, prominently, and using clear language suited to the age of children likely to access that online service, product or feature”](#).

In addition, the CAADC affirms that: [“children should be afforded protections not only by online products and services specifically directed at them, but by all online products and services they are likely to access. In order to help support the design of online products, services, and features, businesses should take into account the unique needs of different age ranges, including the following](#)

developmental stages: 0 to 5 years of age “preliterate and early literacy”; 6 to 9 years of age or “core primary school years”; 10 to 12 years of age or “transition years”; 13 to 15 years of age or “early teens”; and 16 to 17 years of age or “approaching adulthood”.

Information on the collection, use and disclosure of the personal data of those in early childhood should be directed to parents/guardians and focused on both immediate and long-term privacy implications. Information directed to school-aged children should be conveyed using simple, concrete examples and explanations (e.g. “Who can see this photo?”). For adolescents with greater abstract reasoning skills and more independence online, information should include clear explanations of the privacy implications of various forms of online engagement and activity, including information about:

- their privacy rights and responsibilities
- user settings that optimize privacy protections (although these should be turned on by default for all users under 18 years of age)
- how their data will be collected, used or disclosed
- how they can request the removal or deletion of their personal data or content

3. How can the best interests of the child be integrated into privacy impact assessments? How can the best interests of the child be best assessed?

Best interests of the child should be an explicit, documented criterion in all privacy impact assessments. Clear definitions and parameters associated with determining the ‘best interests of the child’ should be included that are in line with existing law and legislation, including the UNCRC and its *General comment* No. 25, the UK’s *Age-Appropriate Design Code*, the EU’s *Digital Services Act*, and the CAADC.

Assessments of the best interests of the child should include early, meaningful, and regular consultation with children, youth, parents, and experts in children’s health and rights. Privacy impact assessments should be holistic in nature, evaluating not just immediate risks, but short- and long-term effects on children and youth. They should highlight the unique and distinct ways children and youth may be disproportionately impacted and embed transparent accountability and oversight mechanisms. They should be comprehensive and inclusive of the wide range of factors impacting child rights in the digital environment and under the UNCRC. By focusing on a child rights perspective and ensuring alignment with international commitments, privacy impact assessments can appropriately balance the privacy and autonomy of children and youth, while also ensuring adaptability to new and emerging technologies and privacy concerns.

A whole-of-government approach that includes a designated regulator with a specific mandate to prioritize the best interests of the child is required. A duty of care on companies to respect children’s rights and counter the commodification of children’s online lives is needed, alongside special protections to support the safety and well-being of children and youth. To realize Canada’s commitments under the UNCRC, a Children’s Privacy Code should ensure comprehensive and enforceable regulation and oversight of digital platforms and services, prioritizing the best interests of the child and the fundamental rights to privacy and security of children and youth.

4. What potential impacts, including harms specific to children, should be considered in privacy impact assessments?

When considering the elevated or specific harms to children associated with engagement in the digital world, it is important to ensure developmental risk factors are appropriately reflected in privacy impact assessments. Because the adolescent brain is still learning to control impulses, regulate emotions and assess risks and consequences, adolescents may be developmentally predisposed to take risks online. A Canadian survey of students in Grades 4 through 11 found that [high percentages of boys \(90%\) and girls \(89%\) agreed with the statement “I know how to protect myself online”](#), indicating that children may be overconfident about being able to protect themselves online.

Children and youth are particularly susceptible to design practices that seek to keep users engaged and on platforms. [The American Psychological Association](#) explains that in the developing minds of pre-teens and teens, the immediate social interaction of social media stimulates oxytocin and dopamine, as well as the brain’s region for motivating action. [According to the US Surgeon General](#), the changes social media can make in the developing amygdala and prefrontal cortex may enhance emotional sensitivity to the comparative, interactive nature of social media. Collectively, these elements of the developing mind make youth particularly sensitive to immediate and attention-grabbing features of social media. Privacy impact assessments should consider the harmful nature of design practices that seek to prolong user engagement and such features should be turned off by default for all users under the age of 18.

Recognizing the harms specific to children in a digital world, the OPC should advance policy and legislation that empowers children’s privacy rights and need for special protections. Such protection should include mandated standards for content reporting and transparent and publicly accountable processes to ensure the timely takedown of harmful images or content of a child. Ensuring children have greater control over their content and personal information should be a key consideration throughout the development and implementation of a Children’s Privacy Code.

Children and youth have inherent rights to autonomy and privacy that must be respected in line with the UN *General comment* No. 25 on children’s rights in relation to a digital environment. As the *General comment* affirms, “[privacy is vital to children’s agency, dignity and safety and for the exercise of their rights](#)”. Privacy impact assessments should carefully consider children’s rights to privacy and freedom of thought and opinion, and prioritize appropriate safeguards to help right-size the power imbalance that currently exists between children and youth and some of the largest and most pervasive companies in the world.

Privacy-by-design standards are particularly important for children and youth to ensure all features and settings that can improve the privacy and safety of underage users are engaged by default. Developing design standards for online platforms that strengthen privacy- and safety-by design features would align with international examples of age-appropriate design codes ([UK](#), [California \(US\)](#) and [Europe](#)) and safety-by-design principles ([World Economic Forum](#), [UK](#) and [Australia](#)).

By prioritizing the safety and privacy of children’s data, some of the negative impacts of digital media platforms on childhood development and well-being can be reduced. Using a combination of enforcement, oversight and design standards to reduce the incentive to profit off children’s data, Canada has an opportunity to upend the business model of platforms and meaningfully change the relationship between child and platform.

5. How can information be tailored to different age ranges and capacities to ensure that children and/or their parents/guardians make informed decisions about privacy? Are

there tools or approaches that can be used to support this? What are potential challenges and solutions to doing this effectively?

Fundamentally, child-friendly design and information delivery should be mandatory for services targeting or accessible to minors. The onus should be on online platforms and services to uphold children's right to privacy, rather than on children and parents to navigate complex privacy settings or read terms of service that are frequently lengthy and highly technical. Strict restrictions are needed on data sharing and tracking, and only the minimum amount of personal data needed for functionality of a service should be collected. Information on how children's data will be collected, used or shared must be clear, concise, prominent and age-appropriate.

The development and enforcement of Canadian standards for the delivery of information tailored to different age ranges and capacities could help to support children, youth and families, as well as all those who care for or educate children and youth. Standards would reduce disparities between organizational approaches and increase the confidence of parents/guardians in making informed decisions about privacy and their children's use of digital platforms, services or games.

Simultaneously, public education campaigns on digital privacy literacy are needed. Public education campaigns should include a wide variety of comprehensive messaging on harm reduction approaches to digital media use and online engagement, and focus on increasing awareness about privacy and data rights and controls. They should be tailored to different age ranges and audiences, and in languages and with images that reflect the diversity of Canadian families.

About the CPS

The Canadian Paediatric Society is committed to working together to advance the health of children and youth by nurturing excellence in health care, advocacy, education, research, and support of its membership. Founded in 1922, the CPS is a voluntary professional association that represents close to 4,000 paediatricians, paediatric subspecialists, paediatric residents, and others who work with and care for children and youth.